

IN THE SUPREME COURT OF THE STATE OF MONTANA

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

No. DA 09-0312

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STATE OF MONTANA

Plaintiff and Appellee,

v.

CODY WILLIAM MARBLE,

Defendant and Appellant.

FILED

FEB - 3 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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**THIRD MOTION FOR EXTENSION OF TIME**

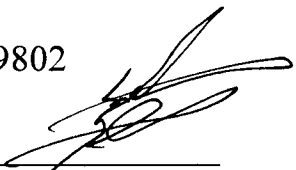
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COMES NOW, Colin M. Stephens, counsel of record for Defendant and Appellant, and respectfully requests a Third Extension of Time (although this is present counsel's second requested extension) for one month in which to prepare, file and serve the Appellant's brief in the above entitled matter. Therefore, with the grant of extension, Marble would have until March 15, 2010, to file his Appellant's Opening Brief. I, Colin M. Stephens, request an extension of time because I need to personally meet with the Appellant and have been unable to do so due to scheduling problems. Furthermore, information has been brought to my

attention which will require ordering additional transcripts and interviewing Marble's previous attorneys of record to fully present Marble's issues on appeal. See attached affidavit. Opposing counsel has been contacted and concerning this motion and does not object.

Dated this 1<sup>st</sup> day of February, 2010.

COLIN M. STEPHENS  
Smith & Stephens, P.C.  
315 West Pine  
Missoula, MT 59802

By:   
COLIN M. STEPHENS

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the Motion for Extension of Time to be mailed to:

FRED VAN VALKENBURG  
Missoula County Attorney  
200 West Broadway  
Missoula, MT 59802

STEVE R. BULLOCK  
Montana Attorney General  
MARK MATTIOLI  
Assistant Attorney General  
215 North Sanders  
Helena, Mt 59620-1401

CODY MARBLE #2044197  
Montana State Prison  
700 Conley Lake Rd.  
Deer Lodge MT 59722

DATED: Feb. 1st 2010



STATE OF MONTANA )

:ss.

COUNTY OF MISSOULA )

I, Colin M. Stephens, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as a contract attorney.

2. In my capacity as a contract attorney, I have been assigned to handle the above-entitled matter.

3. The Appellant's opening brief was first due October 13, 2009. The brief is presently due on February 15, 2010.

4. As shown below, I have exercised diligence and have a substantial need for the extension.

5. It is essential that I personally meet with the Appellant and Defendant Marble at the Montana State Prison in Deer Lodge, MT, and due to scheduling problems, I have not as of yet been able to do so.

6. Additionally, during the course of my research I have discovered that I need to order additional transcripts of the District Court proceedings in order to fully present Marble's issues on appeal.

7. Furthermore, it has come to my attention that Marble was most likely prejudiced by ineffective assistance of counsel and, therefore, I will need additional time to contact Marble's previous attorneys of record to fully understand and present Marble's issues on appeal.

8. I will work diligently to complete the matter in the time requested.

9. Opposing counsel has been contacted concerning this motion and does not object.

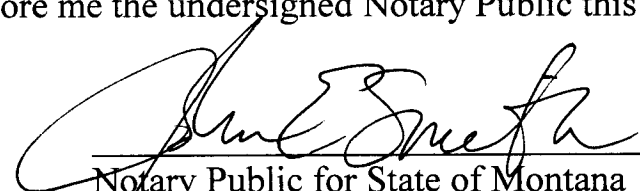
10. Further your affiant sayeth naught.

DATED: 2/1/2010

  
COLIN M. STEPHENS

SUBSCRIBED AND SWORN TO before me the undersigned Notary Public this 1st day of February 2010.

(SEAL)

  
Notary Public for State of Montana  
Residing in Missoula, MT

My Commission Expires: 5-15-10